

Article - Estates and Trusts

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§14.5–507.

(a) (1) A power of appointment held by a person other than the settlor of the trust is not a property interest.

(2) A power of appointment described in paragraph (1) of this subsection and property subject to that power of appointment may not be judicially foreclosed or attached by a creditor of the holder of the power.

(b) None of the following shall be sufficient to create a general power of appointment or a power of withdrawal with respect to a beneficiary or settlor:

(1) The beneficiary serving as a trustee or cotrustee;

(2) The settlor or the beneficiary holding an unrestricted power to remove or replace a trustee;

(3) The settlor or the beneficiary of a trust serving as a trust administrator, a partner of a partnership, a manager of a limited liability company, or an officer of a corporation, or serving in another managerial function of another type of entity if part or all of the trust property consists of an interest in the entity;

(4) A person related by blood or adoption to the settlor or the beneficiary serving as trustee of the trust;

(5) The agent, accountant, attorney, financial adviser, or friend of the settlor or beneficiary serving as trustee of the trust;

(6) A business associate of the settlor or the beneficiary serving as trustee of the trust;

(7) A power of appointment held by the settlor other than the reserved power of the settlor to withdraw trust property for the benefit of the settlor, the creditors of the settlor, the estate of the settlor, or the creditors of the estate of the settlor;

(8) A power to substitute property of equivalent value for trust property as defined in § 675(4)(C) of the Internal Revenue Code of 1986, as amended; or

(9) A power to borrow trust property for less than adequate interest or without security as defined in § 675(2) of the Internal Revenue Code of 1986, as amended.

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